

At IAS Part 13, of the Supreme Court of the State of New York, at the Courthouse thereof, 71 Thomas Street in the Borough of Manhattan, City and State of New York, on the 7 day of March, 2002.

PRESENT:

HON. SHEILA ABDUS-SALAAM

JUSTICE.

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In the Matter of

Index No.400733/02

the Application of

**ORDER**

GREGORY V. SERIO, as Superintendent of Insurance of the State of New York, for an Order of Appointment as Ancillary Receiver of

FARWEST INSURANCE COMPANY

MAR 18 2002

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Upon reading and filing the Order to Show Cause of GREGORY V. SERIO, Superintendent of Insurance of the State of New York (the "Superintendent"), verified the 25th day January 2002, for an Order appointing him Ancillary Receiver for FARWEST INSURANCE COMPANY (hereinafter referred to as "FARWEST"), and directing him to take possession of the property and assets of FARWEST located in the State of New York, pursuant to Article 74 of the Insurance Law of the State of New York; and it appearing to my satisfaction that:

1. FARWEST is domiciled in the State of Nebraska, and licensed in the State of New York as a property and casualty insurer;
2. FARWEST's principal place of business is located at 5230 Las Virgenes Road, Calabasas, California;
3. FARWEST conducted an insurance business in the State of New York;

4. FARWEST was declared insolvent by a Court of competent jurisdiction of the State of Nebraska on November 9, 2001 and is unable to meet its insurance obligations;
5. The Insurance Director of the State of Nebraska was appointed Liquidator of FARWEST;
6. FARWEST is amenable to the Insurance Laws of the State of New York and particularly to Article 74 thereof;
7. It is in the best interests of all policyholders, claimants, creditors, and other interested persons located in the State of New York that the Superintendent be appointed Ancillary Receiver of the property of said Company, subject to the order of this Court.

NOW, on motion of Hon. ELLIOT L. SPITZER, Attorney General of the State of New York, it is ORDERED that:

1. The petition of GREGORY V. SERIO, Superintendent of Insurance of the State of New York, is granted.
2. GREGORY V. SERIO, as Superintendent of Insurance of the State of New York, and his successors in office as Superintendent, be and he is and they are hereby appointed Ancillary Receiver of FARWEST, and are hereby authorized and directed forthwith to take possession of the property of FARWEST located in the State of New York, under and pursuant to the provisions of Article 74 of the Insurance Law of the State of New York and to deal with the property and business of FARWEST, and they are further directed to take and preserve all the other assets and claims which are the property of FARWEST and to protect same for the benefit of creditors, policyholders and other interested parties within the State of New York, and upon the authorization of this Court to pay such claims against FARWEST and/or its policyholders that are covered by the insurance security funds maintained in accordance with Article 76 of the Insurance Law and/or Article 6A of the Workers' Compensation Law.
3. FARWEST, its officers, directors, depositories, trustees, policyholders, attorneys, agents and employees and all other persons having any property or records relating to FARWEST located in the State of New York, including but not limited to claim files, legal files and insurance policy files, are hereby directed to assign, transfer and deliver to the Superintendent, as Ancillary Receiver, all of such property in the State of New York in whomsoever's name the same may be, and that any persons, firms or corporations having any books, papers or records relating to the business of said company shall preserve the same and submit them to the Superintendent, as Ancillary Receiver, for examination at such place as he shall reasonably designate or, at his request, make them available for examination at all reasonable times.

4. The officers, directors, trustees, depositories, policyholders, agents and employees of FARWEST, and all other persons, be and they are hereby enjoined and restrained from the further transaction of business or from dealing with or disposing of the property or assets of the company located in the State of New York, or doing or permitting to be done any act or thing which might waste its property or assets or allow or suffer the obtaining of preferences, judgments, attachments or other liens, or the making of any levy against said company, or its estate while in the possession and control of the Superintendent of Insurance, as Ancillary Receiver.
5. Pursuant to the order of liquidation of a court of competent jurisdiction in the State of Nebraska, entered on November 9, 2001, and the relevant provisions of the Nebraska insurance law, all FARWEST policies including bonds and other non-cancellable business in effect at the time of issuance of the order of liquidation (November 9, 2001) were cancelled until the earliest of :
  - a. thirty days from the date of entry of the liquidation order (December 9, 2001);
  - b. the expiration of the policy or bond coverage; or
  - c. the date when the insured has replaced the insurance or bond coverage with equivalent insurance in another insurer or otherwise terminated the policy.
6. Pursuant to the order of liquidation of a court of competent jurisdiction in the State of Nebraska, entered on November 9, 2001, and the relevant provisions of the Nebraska insurance law, all FARWEST policies including bonds and other non-cancellable business in effect at the time of issuance of the order of liquidation (November 9, 2001) were cancelled as of the date of the order of liquidation.
7. The officers, directors, trustees, depositories, policyholders, agents and employees of FARWEST and all other persons, including but not limited to claimants, plaintiffs and petitioners who have claims against FARWEST, be and they are hereby enjoined and restrained from bringing or further prosecuting any action or proceeding, including, but not limited to actions at law, suits in equity, special or other proceedings against FARWEST or its estate, the Superintendent and his successors in office, as Ancillary Receiver thereof, or the New York State Insurance Department-Liquidation Bureau with respect to claims against FARWEST, or from making or executing any levy upon the property or estate of said company, or the Superintendent as Ancillary Receiver, or the New York State Insurance Department-Liquidation Bureau, or from in any way interfering with the Superintendent or his successors in office, in his or their possession, control or management of the property of said company, or in the discharge of his or their duties as Ancillary Receiver thereof, or in the liquidation of the business of said company.

8. All persons are permanently enjoined and restrained from obtaining preferences, judgments, attachments or other liens, or making any levy against FARWEST's assets or any part thereof in the State of New York.
9. All parties to lawsuits in the State of New York, in which FARWEST is obligated to defend a party pursuant to or by virtue of an insurance policy or in which FARWEST is the excess or umbrella layer of insurance and the primary or other underlying insurer has tendered or offered its full policy limits or where said policy limits have been exhausted by payment of the underlying insurer's aggregate, are enjoined and restrained from proceeding in all actions at law, suits in equity, special, or other proceeding for 180 days from the date of entry of this order, including, but not limited to, proceedings with any discovery, pre-trial conference, trial, application for judgment, or proceedings on judgment or settlement.
10. Those persons who may have first-party or New York comprehensive automobile insurance reparations act (no-fault) policyholder loss claims against FARWEST coming within the purview of Article 76 of the Insurance Law, are enjoined from presenting and filing such claims in this proceeding for 90 days from the date of entry of this order.
11. Notice of making and entry of this Order be given by publication in the N.Y. Times, commencing three weeks from the date of entry of this order once a week for two successive weeks, and that said notice is sufficient notice to all persons interested in the assets of FARWEST.
12. The license of FARWEST to do business in the State of New York, be and the same is hereby revoked.

13. All further papers in this proceeding shall bear the caption and be entered:

“SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK

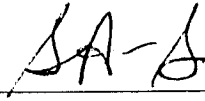
In the Matter of

The Ancillary Receivership of

FARWEST INSURANCE COMPANY”

in place and stead of the caption heretofore used.

ENTER

A handwritten signature in black ink, appearing to be "J.S.C.", written over a horizontal line.

J. S. C.

L2325/FARWESTorder

FILED

MAR 18 2002

SUPREME COURT OF THE STATE OF NEW YORK — NEW YORK COUNTY

PRESENT: HON. SHEILA ABDUS-SALAAM

Justice

PART 13

Matter of *Seris*

INDEX NO.

*400733/02*

MOTION DATE

*3/7/02*

MOTION SEQ. NO.

*001*

MOTION CAL. NO.

*3*

*Farwest Insurance Co.*

The following papers, numbered 1 to \_\_\_\_\_ were read on this motion to/for \_\_\_\_\_

PAPERS NUMBERED

Notice of Motion/ Order to Show Cause — Affidavits \_\_\_\_\_

Answering Affidavits — Exhibits \_\_\_\_\_

Replying Affidavits \_\_\_\_\_

Cross-Motion:  Yes  No

Upon the foregoing papers, it is ordered that this ~~motion~~ application for

*the appointment of petitioner Superintendent of Insurance as Ancillary Receiver of Farwest Insurance Co. is granted without opposition.*

*Order of appointment is signed*

FILED

MAR 18 2002

NEW YORK COUNTY CLERK'S OFFICE

Dated: *3/7/02*

*SA S*

J.S.C.

Check one

FINAL DISPOSITION

NO FINAL DISPOSITION

*11/11/11*

*E*  
*3-15-02*  
*JAL*

MOTION/CASE IS RESPECTFULLY REFERRED TO JUSTICE

Index No.: 400733/02

SUPREME COURT NEW YORK COUNTY

In the Matter of  
the Application of

GREGORY V. SERIO, as Superintendent of Insurance of  
the State of New York, for an Order of Appointment as  
Ancillary Receiver of

FARWEST INSURANCE COMPANY

MAR 18 2002

CLERK OF SUPREME COURT

Sir: Please take notice that the within is a true

copy of  
duly filed and entered in the office of the clerk  
of New York County, on  
the day of , 2002

Yours, etc.,  
**ELLIOT SPITZER**  
Attorney General,

Attorney for

Office and Post Office Address  
120 Broadway, New York, N.Y. 10271

To , Esq.

Attorney for

Sir

Please take notice that the within

will be presented for settlement and signature  
herein to the Hon.  
one of the judges of the within named Court, at

in the Borough of  
City of New York, on the , 20 , at M.

Date, N.Y.,

Yours, etc.,  
**ELLIOT SPITZER**  
Attorney General,

Attorney for

Office and Post Office Address  
120 Broadway, New York, N.Y. 10271

To , Esq.

Attorney for

ORDER

**ELLIOT SPITZER** Attorney General

Attorney for the Superintendent of  
Insurance

Office and Post Office Address  
120 Broadway, New York, N.Y. 10271  
Tel. (212) 416-8658

Personal service of a copy of

within..... day of  
is admitted this ..... day of  
..... 20